

# **JOURNAL OF THE SENATE**

## **EIGHTY-SEVENTH SESSION**

---

TWENTY-NINTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Tuesday, February 28, 2012

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Dodie Noordermeer, followed by the Pledge of Allegiance led by Senate page Brooke Clarke.

Roll Call: All members present except Sens. Hundstad and Nygaard who were excused.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-eighth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Bob Gray, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 I have the honor to inform your honorable body that the House has concurred in Senate  
3 amendments to HB 1196.

4 Also MR. PRESIDENT:

5 I have the honor to return herewith SB 10, 101, 145, 158, 169, and 188 which have passed  
6 the House without change.

7 Also MR. PRESIDENT:

8 I have the honor to inform your honorable body that the House has adopted the report of  
9 the Conference Committee on SB 99.

10 Respectfully,  
11 Karen Gerdes, Chief Clerk

12 **MOTIONS AND RESOLUTIONS**

13 HCR 1014: A CONCURRENT RESOLUTION, Urging the United States Department of  
14 Veterans Affairs to reconsider its proposed closure of certain VA facilities in Hot Springs.

15 Was read the second time.

16 Sen. Bradford moved that the Senate do concur in HCR 1014 as found on page 566 of the  
17 House Journal.

18 The question being on Sen. Bradford's motion that HCR 1014 be concurred in.

19 And the roll being called:

20 Yeas 27, Nays 5, Excused 3, Absent 0

21 Yeas:

22 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Fryslie; Hansen (Tom); Haverly;  
23 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Krebs; Lederman; Maher; Nelson (Tom);  
24 Novstrup (Al); Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Vehle

25 Nays:

26 Brown; Kraus; Olson (Russell); Peters; Tieszen

1       Excused:  
2       Gray; Hundstad; Nygaard

3       So the motion having received an affirmative vote of a majority of the members-elect, the  
4       President declared the motion carried and HCR 1014 was concurred in.

5       HCR 1015: A CONCURRENT RESOLUTION, Urging the federal government to secure  
6       our national borders and enforce United States immigration laws.

7       Was read the second time.

8       Sen. Rampelberg moved that the Senate do concur in HCR 1015 as found on page 568 of  
9       the House Journal.

10       The question being on Sen. Rampelberg's motion that HCR 1015 be concurred in.

11       And the roll being called:

12       Yeas 32, Nays 0, Excused 3, Absent 0

13       Yeas:  
14       Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslic; Hansen (Tom); Haverly;  
15       Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
16       (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
17       Schlekeway; Sutton; Tidemann; Tieszen; Vehle

18       Excused:  
19       Gray; Hundstad; Nygaard

20       So the motion having received an affirmative vote of a majority of the members-elect, the  
21       President declared the motion carried and HCR 1015 was concurred in.

22       HCR 1018: A CONCURRENT RESOLUTION, Urging Congress to restore the impact aid  
23       program.

24       Was read the second time.

25       Sen. Juhnke moved that the Senate do concur in HCR 1018 as found on page 571 of the  
26       House Journal.

27       The question being on Sen. Juhnke's motion that HCR 1018 be concurred in.

28       And the roll being called:

1 Yeas 32, Nays 0, Excused 3, Absent 0

2 Yeas:

3 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Hansen (Tom); Haverly;  
4 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
5 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
6 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

7 Excused:

8 Gray; Hundstad; Nygaard

9 So the motion having received an affirmative vote of a majority of the members-elect, the  
10 President declared the motion carried and HCR 1018 was concurred in.

## 11 **CONSIDERATION OF REPORT OF CONFERENCE COMMITTEE**

12 Sen. Hansen moved that the report of the Conference Committee on SB 99 as found on  
13 page 573 of the Senate Journal be adopted.

14 The question being on Sen. Hansen's motion that the report of the Conference Committee  
15 on SB 99 be adopted.

16 And the roll being called:

17 Yeas 32, Nays 0, Excused 3, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);  
20 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman;  
21 Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave;  
22 Rhoden; Schlekeway; Sutton; Tidemann; Tieszen

23 Excused:

24 Hundstad; Nygaard; Vehle

25 So the motion having received an affirmative vote of a majority of the members-elect, the  
26 President declared the motion carried and the report was adopted.

## 27 **CONSIDERATION OF REPORTS OF COMMITTEES**

28 Sen. Olson moved that the reports of the Standing Committees on

29 Education on HB 1189 as found on page 568 of the Senate Journal; also

- 1 Appropriations on HB 1058 as found on page 569 of the Senate Journal; also  
2 Appropriations on HB 1136 as found on page 570 of the Senate Journal; also  
3 Appropriations on HB 1137 as found on page 570 of the Senate Journal; also  
4 Appropriations on HB 1242 as found on page 571 of the Senate Journal; also  
5 State Affairs on HB 1228 as found on page 571 of the Senate Journal be adopted.  
6 Which motion prevailed.

7 **SECOND READING OF CONSENT CALENDAR ITEMS**

- 8 HB 1096: FOR AN ACT ENTITLED, An Act to specify the venue for certain appeals  
9 involving home-rule municipalities.

10 Was read the second time.

11 The question being "Shall HB 1096 pass as amended?"

12 And the roll being called:

13 Yeas 31, Nays 0, Excused 4, Absent 0

14 Yeas:

15 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Hansen (Tom); Haverly;  
16 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
17 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Schlekeway;  
18 Sutton; Tidemann; Tieszen; Vehle

19 Excused:

20 Gray; Hundstad; Nygaard; Rhoden

21 So the bill having received an affirmative vote of a majority of the members-elect, the  
22 President declared the bill passed and the title was agreed to.

23 HB 1189: FOR AN ACT ENTITLED, An Act to establish a deadline within each semester  
24 after which no student may transfer to a school district other than the resident school district  
25 through the enrollment options program.

26 Was read the second time.

1 The question being "Shall HB 1189 pass as amended?"

2 And the roll being called:

3 Yeas 31, Nays 0, Excused 4, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Hansen (Tom); Haverly;  
6 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
7 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Schlekeway;  
8 Sutton; Tidemann; Tieszen; Vehle

9 Excused:

10 Gray; Hundstad; Nygaard; Rhoden

11 So the bill having received an affirmative vote of a majority of the members-elect, the  
12 President declared the bill passed and the title was agreed to.

13 **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

14 Sen. Rhoden moved that HB 1247 be placed to follow 1126 on today's calendar.

15 Which motion prevailed.

16 HB 1126: FOR AN ACT ENTITLED, An Act to establish provisions that certain bonds  
17 paid by, or on behalf of, certain persons with child support arrearages shall be paid to the  
18 Department of Social Services to pay any child support the defendant owes.

19 Was read the second time.

20 The question being "Shall HB 1126 pass as amended?"

21 And the roll being called:

22 Yeas 32, Nays 0, Excused 3, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);  
25 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman;  
26 Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave;  
27 Rhoden; Schlekeway; Sutton; Tidemann; Tieszen

1       Excused:  
2       Hundstad; Nygaard; Vehle

3       So the bill having received an affirmative vote of a majority of the members-elect, the  
4       President declared the bill passed and the title was agreed to.

5       HB 1247: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
6       voting rights of persons convicted of a felony or serving time in the state penitentiary.

7       Was read the second time.

8       The question being "Shall HB 1247 pass?"

9       And the roll being called:

10       Yeas 20, Nays 13, Excused 2, Absent 0

11       Yeas:  
12       Brown; Cutler; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Kraus; Krebs;  
13       Lederman; Novstrup (Al); Olson (Russell); Peters; Rampelberg; Rave; Rhoden; Schlekeway;  
14       Tidemann; Vehle

15       Nays:  
16       Adelstein; Begalka; Bradford; Buhl; Frerichs; Hunhoff (Jean); Johnston; Juhnke; Maher; Nelson  
17       (Tom); Putnam; Sutton; Tieszen

18       Excused:  
19       Hundstad; Nygaard

20       So the bill having received an affirmative vote of a majority of the members-elect, the  
21       President declared the bill passed and the title was agreed to.

22       HB 1273: FOR AN ACT ENTITLED, An Act to prohibit the sale of loose leaf incense to  
23       minors, to prohibit certain marketing techniques, to regulate the sale of certain types of incense,  
24       to provide penalties therefor, and to declare an emergency.

25       Was read the second time.

26       The question being "Shall HB 1273 pass as amended?"

27       And the roll being called:

28       Yeas 32, Nays 1, Excused 2, Absent 0



1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
3 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
4 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
5 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

6 Nays:

7 Buhl

8 Excused:

9 Hundstad; Nygaard

10 So the bill having received an affirmative vote of a two-thirds majority of the members-  
11 elect, the President declared the bill passed and the title was agreed to.

12 HB 1198: FOR AN ACT ENTITLED, An Act to revise the definition of firearm to include  
13 certain antique, muzzle-loading, and black powder weapons in certain circumstances.

14 Was read the second time.

15 The question being "Shall HB 1198 pass as amended?"

16 And the roll being called:

17 Yeas 33, Nays 0, Excused 2, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);  
20 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman;  
21 Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave;  
22 Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

23 Excused:

24 Hundstad; Nygaard

25 So the bill having received an affirmative vote of a majority of the members-elect, the  
26 President declared the bill passed and the title was agreed to.

27 HB 1253: FOR AN ACT ENTITLED, An Act to prohibit the judicial enforcement of any  
28 religious codes.

29 Was read the second time.

1 The question being "Shall HB 1253 pass as amended?"

2 And the roll being called:

3 Yeas 29, Nays 4, Excused 2, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Cutler; Fryslie; Gray; Hansen (Tom); Haverly;  
6 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
7 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Schlekeway;  
8 Tidemann; Tieszen; Vehle

9 Nays:

10 Buhl; Frerichs; Rhoden; Sutton

11 Excused:

12 Hundstad; Nygaard

13 So the bill having received an affirmative vote of a majority of the members-elect, the  
14 President declared the bill passed and the title was agreed to.

15 HJR 1007: A JOINT RESOLUTION, Proposing and submitting to the electors at the next  
16 general election an amendment to Article XII of the Constitution of the State of South Dakota,  
17 relating to a balanced budget.

18 Was read the second time.

19 The question being "Shall HJR 1007 pass?"

20 And the roll being called:

21 Yeas 30, Nays 3, Excused 2, Absent 0

22 Yeas:

23 Begalka; Brown; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien;  
24 Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup  
25 (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Sutton;  
26 Tidemann; Tieszen; Vehle

27 Nays:

28 Adelstein; Bradford; Buhl

29 Excused:

30 Hundstad; Nygaard

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1 And the roll being called:

2 Yeas 22, Nays 11, Excused 2, Absent 0

3 Yeas:

4 Begalka; Brown; Cutler; Frerichs; Fryslie; Hansen (Tom); Haverly; Heineman; Hunhoff (Jean);  
5 Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al); Olson (Russell); Putnam; Rampelberg;  
6 Rave; Rhoden; Schlekeway; Tidemann

7 Nays:

8 Adelstein; Bradford; Buhl; Gray; Holien; Johnston; Nelson (Tom); Peters; Sutton; Tieszen;  
9 Vehle

10 Excused:

11 Hundstad; Nygaard

12 So the bill having received an affirmative vote of a majority of the members-elect, the  
13 President declared the bill passed and the title was agreed to.

14 HB 1185: FOR AN ACT ENTITLED, An Act to prohibit all qualified health plans offered  
15 through a health care exchange from including abortion coverage.

16 Was read the second time.

17 The question being "Shall HB 1185 pass as amended?"

18 And the roll being called:

19 Yeas 26, Nays 6, Excused 3, Absent 0

20 Yeas:

21 Begalka; Brown; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien; Hunhoff  
22 (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Novstrup (Al); Olson (Russell);  
23 Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen

24 Nays:

25 Adelstein; Bradford; Buhl; Cutler; Nelson (Tom); Vehle

26 Excused:

27 Hundstad; Nygaard; Peters

28 So the bill having received an affirmative vote of a majority of the members-elect, the  
29 President declared the bill passed and the title was agreed to.

1 HB 1186: FOR AN ACT ENTITLED, An Act to prohibit registered sex offenders from  
2 circulating petitions and to provide a penalty for the violation thereof.

3 Was read the second time.

4 The question being "Shall HB 1186 pass as amended?"

5 And the roll being called:

6 Yeas 18, Nays 13, Excused 4, Absent 0

7 Yeas:

8 Begalka; Brown; Fryslie; Hansen (Tom); Haverly; Heineman; Holien; Johnston; Krebs;  
9 Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway;  
10 Tieszen

11 Nays:

12 Bradford; Buhl; Cutler; Frerichs; Hunhoff (Jean); Juhnke; Kraus; Lederman; Maher; Nelson  
13 (Tom); Sutton; Tidemann; Vehle

14 Excused:

15 Adelstein; Gray; Hundstad; Nygaard

16 So the bill having received an affirmative vote of a majority of the members-elect, the  
17 President declared the bill passed and the title was agreed to.

18 HB 1266: FOR AN ACT ENTITLED, An Act to reduce the period of time necessary to  
19 cure and validate certain adoption proceedings.

20 Was read the second time.

21 The question being "Shall HB 1266 pass as amended?"

22 And the roll being called:

23 Yeas 32, Nays 0, Excused 3, Absent 0

24 Yeas:

25 Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
26 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
27 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
28 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

29 Excused:

30 Adelstein; Hundstad; Nygaard

1 So the bill having received an affirmative vote of a majority of the members-elect, the  
2 President declared the bill passed and the title was agreed to.

3 HB 1058: FOR AN ACT ENTITLED, An Act to make an appropriation to the Unified  
4 Judicial System court automation fund and to declare an emergency.

5 Was read the second time.

6 1058bd

7 Sen. Brown moved that HB 1058 be further amended as follows:

8 On page 1 of the Joint Appropriations Committee engrossed bill, delete lines 11 to 13,  
9 inclusive, and insert:

10 "Section 4. That § 16-2-29.5 be amended to read as follows:

11 16-2-29.5. The clerk of court shall charge a records search fee in the amount of ~~fifteen~~  
12 twenty dollars for each record search conducted if the search is requested by a person who is not  
13 a party named in the action for which the search is being requested. The clerk shall charge a fee  
14 of five dollars if the requesting party certifies that the search is being requested in conjunction  
15 with a pending state or federal cause of action. A separate fee shall be charged for each name,  
16 whether individual or corporate, for which a search is requested. The clerk shall deposit the fee  
17 in accordance with § 16-2-43. The clerk may not charge a records search fee if the search is  
18 requested by an attorney of record or any member of the attorney of record's law firm or staff.

19 Section 5. After June 30, 2017, notwithstanding § 16-2-29.5, the clerk of court shall charge  
20 a records search fee in the amount of fifteen dollars for each record search conducted if the  
21 search is requested by a person who is not a party named in the action for which the search is  
22 being requested.

23 Section 6. The provisions of this Act shall become effective January 1, 2013."

24 Which motion prevailed.

25 The question being "Shall HB 1058 pass as amended?"

26 And the roll being called:

27 Yeas 28, Nays 4, Excused 3, Absent 0

28 Yeas:

29 Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
30 Holien; Hunhoff (Jean); Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup  
31 (Al); Olson (Russell); Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann;  
32 Vehle

1 Nays:  
2 Heineman; Johnston; Peters; Tieszen

3 Excused:  
4 Adelstein; Hundstad; Nygaard

5 So the bill having received an affirmative vote of a two-thirds majority of the members-  
6 elect, the President declared the bill passed.

7 The question being on the title.

8 1058btc

9 Sen. Brown moved that the title to HB 1058 be amended as follows:

10 On page 1, line 2, of the Senate Appropriations Committee engrossed bill, delete  
11 everything after "and" and insert "revise certain record search fees charged by clerks of court.".

12 Which motion prevailed and the title was so amended.

13 **SIGNING OF BILLS**

14 The President publicly read the title to

15 SB 10: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to  
16 boating while under the influence.

17 SB 101: FOR AN ACT ENTITLED, An Act to authorize counties to borrow money using  
18 promissory notes.

19 SB 106: FOR AN ACT ENTITLED, An Act to require the disclosure of certain public  
20 employee contracts.

21 SB 123: FOR AN ACT ENTITLED, An Act to revise how the taxes are applied to rural  
22 electric companies.

23 SB 145: FOR AN ACT ENTITLED, An Act to prohibit rebates and regulate contracts for  
24 residential roofing goods and services.

25 SB 158: FOR AN ACT ENTITLED, An Act to create an exception to the loan or credit  
26 limitations of state chartered banks.

27 SB 169: FOR AN ACT ENTITLED, An Act to establish the Regional Watershed Advisory  
28 Task Force.

1 SB 188: FOR AN ACT ENTITLED, An Act to authorize the establishment, operation, and  
2 control of research parks on lands controlled by the Board of Regents.

3 HB 1052: FOR AN ACT ENTITLED, An Act to grant discretion to the court with regard  
4 to personal appearances in certain adoption appearances.

5 HB 1066: FOR AN ACT ENTITLED, An Act to allow for the cremation of deceased  
6 persons who are indigent and the funeral expenses are the financial responsibility of the county.

7 HB 1107: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the  
8 bonding authority of the South Dakota Conservancy District.

9 HB 1131: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the  
10 posting of public notice for meetings of public bodies.

11 HB 1138: FOR AN ACT ENTITLED, An Act to declare that any person who maintains  
12 or provides roll-your-own cigarette machines at retail establishments are cigarette  
13 manufacturers.

14 HB 1182: FOR AN ACT ENTITLED, An Act to revise the filing deadlines for the  
15 nomination of certain independent candidates.

16 HB 1187: FOR AN ACT ENTITLED, An Act to exempt health care sharing ministries  
17 from the provisions of the health insurance code.

18 HB 1227: FOR AN ACT ENTITLED, An Act to revise certain provisions with regard to  
19 the rights of industrial and construction equipment dealers.

20 HB 1269: FOR AN ACT ENTITLED, An Act to make an appropriation for certain costs  
21 related to disasters and to pine beetle suppression and to declare an emergency.

22 HB 1270: FOR AN ACT ENTITLED, An Act to revise the time period for which  
23 unclaimed property is presumed abandoned and to revise certain provisions regarding the  
24 publication notice of unclaimed property.

25 And signed the same in the presence of the Senate.

26 Sen. Olson moved that the Senate do now recess until 5:00 p.m., which motion prevailed  
27 and at 3:25 p.m., the Senate recessed.

28 **RECESS**

29 The Senate reconvened at 5:00 p.m., the President presiding.



## 2 COMMUNICATIONS AND PETITIONS

4 Mr. President and Members of the Senate:

7 Respectfully submitted,  
8 Dennis Daugaard  
9 Governor

12 Sen. Brown moved that HB 1137 be placed to follow 1228 on today's calendar.

14 HB 1136: FOR AN ACT ENTITLED, An Act to revise the state aid to education formula  
15 and to make an appropriation.

17 Sen. Brown moved that HB 1136 be laid on the table.

19 And the roll being called:

21 Yeas:

22 Begalka; Bradford; Brown; Buhl; Cutler; Fryslie; Gray; Hansen (Tom); Haverly; Heineman;

23 Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom);

24 Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway;

25 Sutton; Tidemann; Tieszen; Vehle

1 Nays:

2 Frerichs

3 Excused:

4 Adelstein; Hundstad; Nygaard

5 So the motion having received an affirmative vote of a majority of the members-elect, the  
6 President declared the motion carried.

7 HB 1242: FOR AN ACT ENTITLED, An Act to revise the general appropriations act for  
8 fiscal year 2012.

9 Was read the second time.

10 Sen. Brown moved that HB 1242 be laid on the table.

11 The question being on Sen. Brown's motion that HB 1242 be laid on the table.

12 And the roll being called:

13 Yeas 32, Nays 0, Excused 3, Absent 0

14 Yeas:

15 Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
16 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
17 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
18 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

19 Excused:

20 Adelstein; Hundstad; Nygaard

21 So the motion having received an affirmative vote of a majority of the members-elect, the  
22 President declared the motion carried.

23 HB 1093: FOR AN ACT ENTITLED, An Act to revise certain property tax levies for the  
24 general fund of school districts.

25 Was read the second time.

26 Sen. Brown moved that HB 1093 be laid on the table.

27 The question being on Sen. Brown's motion that HB 1093 be laid on the table.

1 And the roll being called:

2 Yeas 32, Nays 0, Excused 3, Absent 0

3 Yeas:

4 Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly;  
5 Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson  
6 (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;  
7 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

8 Excused:

9 Adelstein; Hundstad; Nygaard

10 So the motion having received an affirmative vote of a majority of the members-elect, the  
11 President declared the motion carried.

12 HB 1220: FOR AN ACT ENTITLED, An Act to conditionally repeal certain provisions  
13 establishing network adequacy standards, quality assessment and improvement requirements,  
14 utilization review and benefit determination requirements, and grievance procedures for  
15 managed health care plans, and certain standards for managed health care plans if the Patient  
16 Protection and Affordable Care Act is found to be unconstitutional.

17 Was read the second time.

18 The question being "Shall HB 1220 pass?"

19 And the roll being called:

20 Yeas 29, Nays 4, Excused 2, Absent 0

21 Yeas:

22 Adelstein; Begalka; Brown; Cutler; Fryslie; Gray; Hansen (Tom); Haverly; Heineman; Holien;  
23 Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson (Tom); Novstrup  
24 (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden; Schlekeway; Tidemann;  
25 Tieszen; Vehle

26 Nays:

27 Bradford; Buhl; Frerichs; Sutton

28 Excused:

29 Hundstad; Nygaard

30 So the bill having received an affirmative vote of a majority of the members-elect, the  
31 President declared the bill passed and the title was agreed to.

1 HB 1228: FOR AN ACT ENTITLED, An Act to provide tax rebates for certain energy  
2 projects.

3 Was read the second time.

4 1228fh

5 Sen. Gray moved that HB 1228 be further amended as follows:

6 On the Senate State Affairs Committee engrossed bill, delete everything after the enacting  
7 clause and insert:

8 "Section 1. That chapter 10-45B be amended by adding thereto a NEW SECTION to read  
9 as follows:

10 Notwithstanding any other provision of this chapter, a wind energy facility which installs  
11 wind turbines and operates them to create electrical energy is eligible for a refund of the sales  
12 and use taxes and contractors excise taxes paid on the project. The wind energy facility shall  
13 have a construction date on or after January 1, 2013, and the total project costs shall exceed fifty  
14 million dollars. For project costs incurred and paid after January 1, 2013, inclusive, the amount  
15 of the refund shall be determined by multiplying the nameplate capacity of the installed turbines  
16 by forty-five dollars per kilowatt. The refund is payable when construction is complete and the  
17 sales and use taxes and contractors excise taxes have been paid in full.

18 Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 Notwithstanding any other provision of this chapter, this section controls the amount of  
21 refunds payable under this chapter for any new business facility that is an environmental  
22 upgrade to an existing power generation facility. The environmental upgrade shall have a  
23 construction date on or after January 1, 2013, and the total project costs shall exceed fifty  
24 million dollars. For project costs incurred and paid after January 1, 2013, inclusive, the amount  
25 of the refund amount of the tax refund for an environmental upgrade to an existing power  
26 generation facility shall be fifty percent of the taxes paid. For project costs incurred after  
27 January 1, 2017, there is no refund. The refund is payable when construction is complete and  
28 the sales and use taxes and contractors excise taxes have been paid in full.

29 Section 3. That subdivision (6) of § 10-45B-1 be amended to read as follows:

30 (6) "Power generation facility," a facility with one power unit that generates electricity  
31 with a nameplate capacity of no less than ~~five~~ three hundred megawatts;  
32 "

33 Which motion prevailed.

1 The question being "Shall HB 1228 pass as amended?"

2 And the roll being called:

3 Yeas 18, Nays 15, Excused 2, Absent 0

4 Yeas:

5 Adelstein; Begalka; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Hunhoff (Jean); Johnston;  
6 Juhnke; Krebs; Lederman; Maher; Nelson (Tom); Rave; Rhoden; Tieszen; Vehle

7 Nays:

8 Bradford; Brown; Buhl; Haverly; Heineman; Holien; Kraus; Novstrup (Al); Olson (Russell);  
9 Peters; Putnam; Rampelberg; Schlekeway; Sutton; Tidemann

10 Excused:

11 Hundstad; Nygaard

12 So the bill having received an affirmative vote of a majority of the members-elect, the  
13 President declared the bill passed.

14 The question being on the title.

15 1228fth

16 Sen. Gray moved that the title to HB 1228 be amended as follows:

17 On page 1, line 1, of the Senate State Affairs Committee engrossed bill, delete "rebates"  
18 and insert "refunds".

19 Which motion prevailed.

20 HB 1137: FOR AN ACT ENTITLED, An Act to make an appropriation to fund one-time  
21 payments to state employees and to employees of providers, and to declare an emergency.

22 Was read the second time.

23 1137ud

24 Sen. Brown moved that HB 1137 be further amended as follows:

25 On the Senate Appropriations Committee engrossed bill, delete everything after the  
26 enacting clause and insert:

27 "Section 1. The funds in section 8 of this Act are provided for the purpose of making a  
28 one-time payment to active, permanent employees hired before March 24, 2011, not including  
29 the Governor, lieutenant governor, attorney general, secretary of state, state auditor, state  
30 treasurer, commissioner of school and public lands, or public utilities commissioners, for the

purpose of encouraging public service and for continued service in the state government workforce. This payment will be made on March 30, 2012, and will be calculated as a percentage of the employees' annualized salary effective as of March 23, 2012. This percentage shall be five percent for an employee hired before March 24, 2009; three and four-tenths percent for an employee hired March 24, 2009 to March 23, 2010, inclusive; and one and seven-tenths percent for an employee hired March 24, 2010 to March 23, 2011, inclusive.

Section 2. For the purposes of this Act, annualized salary means an employee's hourly wage times the number of hours in the fiscal year in which the payment is made times the percent of time the employee is regularly scheduled to work, or the employee's annual salary times the percent of time the employee is regularly scheduled to work. If a full-time employee's annual salary is less than forty-six thousand dollars, the calculation shall be based on forty-six thousand dollars times the percent of time the employee is regularly scheduled to work. If a full-time employee's annual salary is more than one hundred fifty thousand dollars, the calculation shall be based on one hundred fifty thousand dollars times the percent of time the employee is regularly scheduled to work.

Section 3. Any payment pursuant to this Act is not to be considered as part of the employee's base compensation or regular rate of pay, nor is the payment compensation for any past performance or future action.

Section 4. The amount necessary to fund the one-time payment to employees may be transferred to the appropriate budget units by the Bureau of Finance and Management. If there is not enough funding to provide the required payments to the workforce in place at the time of calculation, the bureau may reduce and prorate the amount of the one-time payments.

Section 5. The funds in section 7 of this Act are provided to enhance the military value of Ellsworth Air Force Base, gain efficiencies for Ellsworth Air Force Base, mitigate encroachment issues, and other actions as necessary to promote and facilitate the retention and possible expansion of Ellsworth Air Force Base.

Section 6. The funds in section 7 of this Act which are unspent at the end of fiscal year 2012 may be carried over to the next fiscal year.

Section 7. That section 2 of chapter 23 of the 2011 Session Laws be amended to read as follows:

#### DEPARTMENT OF EXECUTIVE MANAGEMENT

##### (3) Governor's Office of Economic Development

Operating Expenses, General Funds, delete "\$5,829,298" and insert "\$6,329,298"

Adjust all totals accordingly.

Section 8. That section 2 of chapter 23 of the 2011 Session Laws be amended to read as follows:

DEPARTMENT OF EXECUTIVE MANAGEMENT

(17) delete "State Government Energy Program" and insert "Employee Compensation"

Personal Services, General Funds, delete "\$0" and insert "\$12,296,256"

Personal Services, Federal Funds, delete "\$0" and insert "\$5,692,174"

Personal Services, Other Funds, delete "\$0" and insert "\$13,210,064"

Operating Expenses, General Funds, delete "\$0" and insert "\$193,023"

Adjust all totals accordingly.

Section 9. That section 17 of chapter 23 of the 2011 Session Laws be amended to read as follows:

DEPARTMENT OF CORRECTIONS

(8) Juvenile Community Corrections

Operating Expenses, General Funds, delete "\$11,373,512" and insert "\$11,623,005"

Operating Expenses, Federal Funds, delete "\$8,150,915" and insert "\$8,358,592"

Adjust all totals accordingly.

Section 10. That section 18 of chapter 23 of the 2011 Session Laws be amended to read as follows:

DEPARTMENT OF HUMAN SERVICES

(2) Developmental Disabilities

Operating Expenses, General Funds, delete "\$39,928,174" and insert "\$41,093,167"

Operating Expenses, Federal Funds, delete "\$67,595,659" and insert "\$69,208,823"

Adjust all totals accordingly.

Section 11. That section 18 of chapter 23 of the 2011 Session Laws be amended to read as follows:

DEPARTMENT OF HUMAN SERVICES

(4) Rehabilitation Services

Operating Expenses, General Funds, delete "\$2,985,153" and insert "\$3,052,457"

1 Operating Expenses, Federal Funds, delete "\$11,888,314" and insert "\$11,939,743"

2 Adjust all totals accordingly.

3 Section 12. That section 21 of chapter 23 of the 2011 Session Laws be amended to read as  
4 follows:

5 UNIFIED JUDICIAL SYSTEM

6 (2) Unified Judicial System

7 Operating Expenses, General Funds, delete "\$2,367,181" and insert "\$2,387,161"

8 Adjust all totals accordingly.

9 Section 13. The Department of Social Services shall utilize \$4,030,039 in general funds and  
10 \$4,204,303 in federal fund expenditure authority appropriated in section 8, chapter 23 of the  
11 2011 Session Laws for the purposes of providing a one-time increase to various providers.

12 Section 14. That section 12 of chapter 23 of the 2011 Session Laws be amended to read as  
13 follows:

14 DEPARTMENT OF EDUCATION

15 (2A) Nonrecurring State Aid to General Education Formula Allocation

16	Personal Services	\$0	\$0	\$0	\$0
17	Operating Expenses	\$8,689,359	\$0	\$0	\$8,689,359
18	Total	\$8,689,359	\$0	\$0	\$8,689,359
19	F.T.E.				0.0

20 The funding appropriated by this subsection shall be distributed to the school districts through  
21 the existing distribution formula on a nonrecurring basis.

22 Adjust all totals accordingly.

23 Section 15. That section 12 of chapter 23 of the 2011 Session Laws be amended to read as  
24 follows:

25 DEPARTMENT OF EDUCATION

26 (11) Education Resources

27 Operating Expenses, General Funds, delete "\$4,778,181" and insert "\$5,028,181"



1 Adjust all totals accordingly.

2 Section 16. That chapter 23 of the 2011 Session Laws be amended by adding thereto a NEW  
3 SECTION to read as follows:

4 Section 36. The state treasurer shall transfer to the cement plant retirement fund one million  
5 dollars (\$1,000,000) from the state general fund.

6 Section 17. The Governor and the Chief Justice shall approve vouchers and the state auditor  
7 shall draw warrants to pay expenditures authorized by this Act.

8 Section 18. Whereas, this Act is necessary for the support of the state government and its  
9 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
10 full force and effect from and after its passage and approval."

11 Which motion prevailed.

12 The question being "Shall HB 1137 pass as amended?"

13 And the roll being called:

14 Yeas 33, Nays 0, Excused 2, Absent 0

15 Yeas:

16 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);  
17 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Krebs; Lederman;  
18 Maher; Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave;  
19 Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

20 Excused:

21 Hundstad; Nygaard

22 So the bill having received an affirmative vote of a two-thirds majority of the members-  
23 elect, the President declared the bill passed.

24 The question being on the title.

25 1137utb

26 Sen. Brown moved that the title to HB 1137 be amended as follows:

27 On page 1, line 1, of the Senate Appropriations Committee engrossed bill, delete  
28 everything after "Act to" and insert "revise the General Appropriations Act for fiscal year 2012  
29 and to declare an emergency."

1 On page 1, delete line 2.

2 Which motion prevailed.

3 There being no objection, the Senate reverted to Order of Business No. 7.

4 **MESSAGE FROM THE HOUSE**

5 MR. PRESIDENT:

6 I have the honor to inform your honorable body that SB 170 was tabled.

7 Respectfully,  
8 Karen Gerdes, Chief Clerk

9 Sen. Olson moved that when we adjourn today, we adjourn to convene at 10:00 a.m. on  
10 Wednesday, February 29, the 30<sup>th</sup> legislative day.

11 Which motion prevailed.

12 **COMMEMORATIONS**

13 SC 20 Introduced by: Senator Brown and Representatives Cronin and Hoffman

14 A LEGISLATIVE COMMEMORATION, Congratulating and honoring Earle and Mildred  
15 Tanner on their 74<sup>th</sup> wedding anniversary and Earle on his 100<sup>th</sup> birthday.

16 WHEREAS, Earle Clayton Tanner and Mildred Louise Kammer married on August 20,  
17 1937, in Gettysburg, South Dakota. To this union six children were born as well as twenty  
18 grandchildren, thirty-five great-grandchildren, and four great-great grandchildren. Their life  
19 together and love for each other is the epitome of marriage as they celebrated their 74<sup>th</sup> wedding  
20 anniversary and Earle's 100<sup>th</sup> birthday on August 21, 2011; and

21 WHEREAS, in addition to being life-long residents of South Dakota, Earle and Mildred  
22 made contributions to South Dakota agriculture through farming, ranching, operating Earle's  
23 father's custom thrashing crew, and running a poultry business. Earle and Mildred were also  
24 both very involved in the community. Earle worked for the WPA building roads and dams in  
25 the 1930s, served on the school board, was a director for the Federal Land Bank, served as  
26 president of the Appomattox Community Club, and was a 4-H leader for the Appomattox  
27 Go-Getters. Mildred is a 63 year Lincoln Appomattox Extension Club member, American  
28 Legion Auxiliary member, was an Appomattox Go-Getter 4-H Club leader for 31 years, and  
29 helped with clothing exhibits at the Potter County fair; and

1 WHEREAS, Earle and Mildred have stood by each other always. Not only have they  
2 complimented each other in marriage, but also in their hobbies. Earle, a talented woodworker,  
3 and Mildred, a talented painter, have made many special gifts ranging from wooden shelves to  
4 painted birdhouses for family and friends. This teamwork has been present in all aspects of their  
5 life together. The commitment they have to each other is present every day as they still reside  
6 on their farm, ten miles northwest of Gettysburg; and

7 WHEREAS, Earle and Mildred's hard work, dedication, and unselfish contributions to  
8 family, community, and South Dakota have set a positive example for all people to follow:

9 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of  
10 the State of South Dakota, that Earle and Mildred Tanner be congratulated and honored for their  
11 anniversary and Earle for his birthday.

12 SC 21 Introduced by: Senators Frerichs, Begalka, Bradford, Brown, Fryslie, Hansen (Tom),  
13 Hunhoff (Jean), Juhnke, Krebs, Maher, Nygaard, Olson (Russell), Putnam, Rampelberg,  
14 Rhoden, Sutton, Tidemann, and Vehle and Representatives Vanneman, Bolin, Brunner, Cronin,  
15 Dennert, Elliott, Feickert, Greenfield, Hoffman, Hunhoff (Bernie), Jones, Kloucek, Kopp,  
16 Lucas, Nelson (Stace), Olson (Betty), Rausch, Schaefer, Scott, Sigdestad, Street, Tulson, Van  
17 Gerpen, Verchio, and Wismer

18 A LEGISLATIVE COMMEMORATION, Congratulating and commending Wyatt DeJong of  
19 Winner, South Dakota, and the Winner FFA Chapter for his outstanding year as the 2010-  
20 2011 National FFA Central Region Vice President.

21 WHEREAS, Wyatt DeJong was elected as the 2010-2011 National FFA Central Region  
22 Vice President at the 2010 National FFA Convention. He served the National FFA Organization  
23 with five other national FFA officers from around the nation; and

24 WHEREAS, Wyatt helped make a difference and was an inspiration in the lives of  
25 agriculture, food, and natural resources education students and FFA members across the nation  
26 through speeches and workshops at schools and state conventions; and

27 WHEREAS, Wyatt played the role of relationship builder with national partners in industry,  
28 education, and government; as well as local and state stakeholders like parents, administrators,  
29 and teachers; and

30 WHEREAS, Wyatt served a year with passion and helped ensure the future of agricultural  
31 education and FFA in classrooms across the nation:

32 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of  
33 the State of South Dakota, that Wyatt DeJong be congratulated and commended for his  
34 outstanding service to the National FFA Organization; agriculture, food, and natural resources  
35 education; and the agricultural industry as a whole.

3 Fee Jacobsen, Secretary